IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

WP(C).No. 21528 of 2006(K)

PETITIONER:

TATA TELESERVICES LIMITED,
(CORPORATE OFFICE) JEEVAN BHARATH TOWER
CONNAUGHT CIRCUS, NEW DELHI-110 001, AND
CIRCLE OFFICE AT S L PLAZA, KOCHI-25,
REPRESENTED BY SENIOR EXECUTIVE
SRI.BOBBY JOSEPH.

BY ADV. .
SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR

RESPONDENTS:

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1. THE OMBUDSMAN FOR LOCAL SELF
GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

2. THE SECRETARY, OLAVANA GRAMA
PANCHAYATH, G.A. COLLEGE P.O., KOZHIKODE.

3. SHRI.ABDUL JALEEL,
KALANKOLLYPARAMBU, G.A. COLLEGE P.O.,
PALAZHY-PALA, KOZHIKODE.

4. STATE OF KERALA, REPRESENTED BY
SECRETARY TO LOCAL SELF GOVERNMENT INSTITUTIONS
SECRETARIAT, THIRUVANANTHAPURAM.

BY G.P. SRI.MATHEW G.VADAKKAL

BY ADV. SRI.P.V.KUNHIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 21528 of 2006

Dated this 1st day of February , 2007

JUDGMENT

Ext.P5 order passed by the Ombudsman for Local Self Government Institutions, is under challenge. Ext.P5 is a general order wherein the Ombudsman ordered that providers of teli communication service shall produce no objection certificate from the Automic Energy Commission so as to enable the Panchayat to issue licence to them for installation of mobile tower and for energizing the same.

2.Heard Sri.A.M.Shaffique the learned Counsel for the petitioner, Sri.P.V.Kunhikrishnan, the learned Standing Counsel for the Panchayat and Sri.Mathew G.Vadakkal, the learned Government Pleader for the 4th respondent. Even though the 3rd respondent had filed complaint regarding the installation and commission of the mobile tower by the petitioner he has not entered appearance before this court for resisting this writ petition. My attention was drawn by Sri.A.M.Shaffique to the judgment of the Division Bench of this court in Reliance

Infocom Ltd. v. Chemanchery Grama Panchayat (2006 (4) KLT 695). Paragraphs 5 and 8 were highlighted before me by the learned counsel. I notice that the issue is decided by the Division Bench in favour of the petitioner.

3. Having regard to the principles laid down in Reliance case (supra), Ext.P5 cannot be sustained at all. Ext.P5 therefore will stand quashed. However, it is made clear that all the observations and direction in paragraph 8 of the Reliance Case which I quote as follows;

> "We notice that the Panchayat has as on today no scientific data or relevant materials to cancel the licence already granted on the ground that the installation of the Tower would cause any health hazards. Licence granted has been cancelled by the Panchayat based on an apprehension that the radiation may cause health hazards to the people of the locality. Further Ext.P5 also says that installation of generator would cause sound pollution. Petitioner has not installed any generator as on today and if the installation of generator would cause any sound pollution, evidently Pollution Control Board can give appropriate direction and the petitioner will have to obtain necessary consent from the Pollution Control Board for installation of generators, so that it would not cause any sound pollution. So also, if the installation of Tower and the emission of elctromagnetic waves causes any

> air pollution, affecting human health the Pollution Control Board can take appropriate measures under Air (Prevention and Control of Pollution) Act 1991".

shall be binding on the writ petitioner also.

The writ petition stands allowed subject to the above quoted directions and observations.

PIUS C.KURIAKOSE
Judge

dpk